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195⁴⁹
B CLASS

File No. 1817/48

P. W. DEPARTMENT

M. BRANCH

Subject:— Railway crossings

M and S. M. Rly

Procedure regarding
annual closing of.

1/

B [K] 1951.

File No.

1817/48

Std. Sect. Slip. 94 A

M - BY

DOCKET SHEET

Subject :—

File No. 1817 / 48

P. W. DEPT.

M. BRANCH.

References :—

Original File sent to Maharashtra
BOM

Date.	To whom sent.	Notes and instructions.

THE MADRAS AND SOUTHERN MAHRATTA RAILWAY

Post. Box.No.523.

Telegrams:-'Freight' Madras.

Telephone:-2901.

General Manager's Office,

Park Town.

Madras-3

dated. 23rd August 1947.

In reply Please quote.-

No. W.1930/48.

To.

The Secretary to the Government of Bombay,
Public Works Department,
Bombay.

Re;-Annual closing of roads and pathways across
Railway land on ~~the~~ ^{way} the M. & S.M. Railway.

In order to maintain the right of the Railway Administration it has been the practice for many years to notify duly by advertisements in the daily newspapers the closure for one day on the 1st January each year of certain private pathways and roads constructed on Railway land.

2. This practice was however temporarily discontinued for the duration of the War. Now that the War is over, it is being revived.

3. With a view ^{to} ~~of~~ reducing the expenditure involved in advertisement in the press, the whole procedure was reviewed and a reference ~~is~~ made to other Government Railways to ascertain the procedure in vogue on those Railways.

4. It has been ascertained that on one Railway no advertisements are put in the newspapers annually but instead the District Railway Officers advise the District Magistrates concerned of their intention to close the pathways on the 1st January of each year, furnishing them with a list of such roadways and pathways which are closed accordingly for one day in the year.

5. It is proposed to adopt this procedure on this Railway viz-----

viz. advising the District Magistrates instead of advertising in the newspapers and to publish a list of ways so closed in our Weekly Gazette.

6. I shall be glad if you will kindly communicate the views of the Government as to whether this procedure will be acceptable.

Sd/-
for General Manager.

Id/-
25/8/

M.B.

The proposal of the MSM may be agreed to after u.o.r. to the H.D.

Id/-
28-8-47

Yes.
Id/-
29-8-47

u.o. to H.D, dated 1.9.47.

Home Department.

Seen and returned to the P.W.D.

Id/-
5-9-47.

Id/-
9-9-47.

u.o.r. dated the 10-9-47.

1817/48/38773 -M

P. W.D.
B.C. 20th Sept. 1947.

To.

The General Manager,
L & S. M. Railway.

Subject:- Annual closing of roads & pathways accross
Railway land on the M. & S. M. railway.

Sir,

With reference to your letter No. W 1930/48, dated
the 23-8-47, on the subject mentioned above, I am directed to inform you that Govt. have no objection to your adopting the procedure as laid down in para. 5 of your letter under reply.

~~Y.O.S.~~ Y.O.S.

D.A.Nil.

Id/-

17-9-47.

Government of Madras.
Abstract.

Land-Railways-Annual closure of roads and pathways-Procedure-Orders-passed.

Revenue Department.

Ms.
G.O.No.743.

Dated the 1st April 1948.

Read the following:-

From the General Manager, M. & S. M. Railway
Letter No. W. 1930/48, dated 25-8-1947.

~~The~~ From the Board of Revenue, L.Dis.No.4796/46,
dated the 19th November 1947.

To the General Manager, M. & S. M. Railway, letter
No. 1776-J/47-4, Revenue, dated 4-12-1947.

To the General Manager, S.I. Railway Letter
No. 1776/X/47-5 Revenue dated 4-12-1947.

From the General Manager, M. & S.M. Railway, letter
No. 1930/47, dated the 18th December 1947.

From the General Manager, S.I. Railway, letter
No. W.C. 79/33/2, dated the 14th February 1948.

Order:-

It has been the practice with the Railway Administrations to close for one day every year the private pathways and roadways constructed on Railway lands and to notify such closure in the Press, for purposes of maintaining their legal right. With a view to reduce the expenditure, the General Manager of the M.S.M. Railway has suggested that the closure, instead of being notified in the Press, may be notified through the agency of the Revenue and Railway Departments.

2. The Government have examined the suggestion in consultation-----

with the General Manager of the M. S.M. and the South Indian Railway and have decided that the following procedure should be adopted in future.

- 1) That the Railway Administration should give at least a month's notice of the closure to the concerned ~~Dist~~ District Collectors to enable them to arrange for due publicity in the villages,
- 2) that, on receipt of the notice, the District Collectors should direct the village officers concerned to notify the closure by beat of tom tom ~~of~~ for three consecutive days previous to the closure, to obtain the signature of villagers in token of the notification and to submit the published notification with the signatures of the villagers to the ~~R~~ Taluk offices concerned for file and
- 3) that the Railway Administrations should, at the same time, notify the closure by posting notices on the notice boards of Railway Stations which are close to the pathways, and roadways proposed to be closed.

~~3)~~
3. The Board of Revenue is requested to instruct all Collectors to follow this procedure in future. The General Managers of the M & S.M. and the S.I. Railways are also requested to see that their Administrations follow this procedure in future.

The South Indian Railway has stated that the date of closure of roads etc. in their jurisdiction is 1st July of each year and not 1st January as is the case ~~xxx~~ with M. & S.M. Railway.

(BY ORDER OF HIS EXCELLENCY THE GOVERNOR).

V.K.Rao.
Deputy Secretary to Government.

To the Board of Revenue

- " General Manager, M.&S.M.Railway, P.T. Madras.
- " General Manager, ~~Mxx&SxxM~~ S. I. Railway, Trichinipoly.
- " General Manager, B.N. Railway. ,

(TRUE COPY)

Forwarded / By order.

Sd/-
2-4-48.
Superintendent.

{Copy}

MADRAS AND SOUTHERN MAHRATTA RAILWAY.

Post Box No. 523.
Telegrams:- 'Freight' Madras.
Telephone: 2901-

General Manager's office
Park Town,
Madras; 3.
Date 24th August 1949.

In reply please quote.--
No. W. 1930.

The Secretary to the Government of Bombay,
Public Works Department,
Bombay.

Annual closing of roads and pathways across
Railway land on the M. & S. M. Railway.

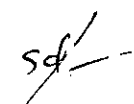
My letter No. W. 1930/48 of 28-8 -47.
Your letter No. O/38773-M of 20-9-47.

Adverting to the above quoted correspondence the
Government of Bombay have advised that they have no
objection to the adoption of the procedure outlined in
para. 5 of my letter quoted above regarding the annual
closing of roads and pathways vide your letter quoted
above.

2. To implement the procedure accepted by your Gov-
ernment would you kindly arrange to issue necessary
instructions to the District Magistrates concerned.

3. A copy of the instructions issued by the Govern-
ment of Madras in this connection is enclosed for your
information.

D.A. 1.


General Manager.

M.B.

1817/48
56410

P. W. D.

Submitted with reference to G.L. at p.3 ante.

2. The General Manager, M & S.M. Rly., had outlined
a procedure to ~~the~~ be adopted in regard to the annual
closing of roads and pathways across Rly. lands on the
M. & S.M. Rly. for the opinion of Govt.....

He was informed that this Govt. have no objection to the procedure suggested.

3. The General Manager now requests that necessary instructions may be issued to the Distt. Magistrates i.e. the Collectors concerned in the matter .

4. These papers may be shown u.o. to the H.D. and R.D. The latter Deptt. may be requested to issue the necy. instructions to the Collectors of the Distt. and then return the ~~app~~ papers to this Deptt.

Id/-
31-8-49.

u.o.r. to the H.D. dt. the 6th Sept. 1949.
R.D.

H.D (E).

Submitted with reference to the office note at p. e2 ante.

2. These papers may be seen and passed on to R.D.

Id/-
7/9/49.

D.S.
u.o.r. to R.D. dt- 9-9-49.

Rev. Department.

Govt. in P.W.D. has approved ^{the} ~~the~~ procedure laid down in para. 5 of the ^{Rly.} letter dt. 23-8-47 on page 1. The Rly. now requests for issuing instructions to the D.Ms. The endt. overleaf may issue. After issue these pps. may be returned u.o. to the P.W.D. as requested.

Id/-30-9-49.

This will not do pl. bring up.

Id/-5-10-49.

*Draft letter at p. 15 ~~not~~ may issue -
15/10/49.*

Must R.D. issue these orders?

They pertain

to user of roads and

crossings by

the Public using

other roads

which is a P.W.D. matter.

Will A.S. speak?

(R.D.) Pl. speak?

Since the P.W.D. is dealing with this subject,

there is no objection to that Dept. issuing the instructions to the officers concerned including collrs. and comrs.

In effect the Rly. addn. saves it costs and the Provl. Govt. are asked to incur expdre. on stationary, postage,

and to ~~xxxx~~ provide labour etc.,

3. It is not clear which villages will be affected and which villages will be notified and asked to give signatures. Presently this is left to be decided by the Collrs.

4. It is not the villages of adjoining villages only there use the Rly. crossing many others using National Provincial highways too have to use these crossings. Perhaps, Press notes are the ^{best} ~~last~~ method of informing such people of the closure.

5. These annual closures are intended presumably to ensure ^{that} ~~there is~~ no easement ^{or right} ~~grow~~ on Rly. lands by continuous ^{order} ~~prescriptive~~ use by others. If that is so, it seems unnecessary to close the crossings for a whole day closure for some time only would ^{serve} ~~serve~~ the purpose. P.W.D. may pl. consider this. H.M.R.D. may ~~be~~

in in P.W.D.

u.o.r. to P.W.D. dt 19-~~40~~-49

M.B.

P.W.D.

Submitted with refce. to this Deptt. u.o.r. dated the 6-9-49.

2. The General Manager, M. S.M. Rly. stated that in order to maintain their legal right on the path-ways and overbridges ~~xxxx~~ crossing the Rly. lands, it was the practice of the administration to close these crossings for a day by notifying such closure in the Press. In order to minimise expenditure on advertisements in the Press, etc., the General Manager, in asking the opinion of this Govt. suggested that the Distt. Rly. officers would advise the Distt. Magistrates concerned of their intention to close such crossing on the 1st January of each year, furnishing also a list of such roadways, etc. Since there was nothing objectionable in accepting the suggestions in principle, the General Manager was informed in G.L. No. 0/38773-M, dated the 20-9-47 of its acceptance. Thereupon, that officer requested this Govt. to issue the necy. instructions to the Distt. Magistrates (Collectors) concerned to implement the new procedure.

3. The R.D. was requested to comply with the same but it has raised certain points for consideration. The ones to be carefully considered are (1) where it would not do to close the ~~xxx~~ crossings for certain hours only instead of the whole day and (2) the Rly. Admn. will save expenditure on advertisements while the Provl. Govt. will have to incur the same stationary, postage and also labour.

4. As regards point (1) it may be stated that under section 15 of the Indian Easement Act, the Rly. administrations have to close such ~~xxxxxx~~ crossings for 24 hours without interruption to maintain their legal

121 121

rights. It is informally ascertained from the B.B. & G.I. Rly that this question was taken up with the Rly. Board to close the crossings for a few hours and yet maintain their legal right. The Board was not in favour of the same since legally it was not in order. This Govt., therefore, cannot ask the Rly. administrations to close such crossing for fraction of a day.

5. As regards (2) this Govt. accepted in principle the suggestion of the General Manager to inform the Distt. Magistrates concerned of the closure of the crossings. If the matter were to rest there it would not be much but if the Dist. Magistrates have to give wide publicity, which he should necessarily do in the ordinary course, then it is a food for much and a considerate thought. The Rly. tries to save expenditure and labour while ~~it asks~~ it asks the Provl. Govt. to spend which is not its legitimate work. If such be the case then this Govt. should not shoulder the responsibility and labour of informing all concerned the Distt. Magistrate who in turn will have to inform the Mamlatdar, & the latter to the Talati and so on from the highest to the lowest to implement the procedure. If such be the case, the General Manager may be informed that this Govt. cannot accept the responsibility of intimating the villages etc. of the closure of the crossings.

6. ~~Then~~ On receipt of orders necy. further action will be taken in the matter.

Id/-
18-12-49.

This Govt. cannot undertake to give publicity of the closure on behalf of Rly. 10/12
Id/-10-12-

The practice of closing paths was stopped during the War without any harmful results. etc.

Under sec. 15 of the Easements Act, 1882, the right has to be ~~enjoyed~~ enjoyed, otherwise than by agreement, for 20 years without interruption.

The formal closures for-----

closures for a day or a few hours can perhaps be dispensed with annually and adopted once in 20 years. Where there is an agreement between the Rly. and the villagers, no formal closing would be necessary. Such closures are merely for establishing the Rlys' rights and are a nuisance from all points of view, if the rights of the Rly. can be safeguarded otherwise. Now ~~all~~ most of the Rlys are crown (Govt) railways and ~~thxxxx~~ that may perhaps change the position between the Rly. and the public.

We might address the G.M. on above lines and refer the matter to the legal Deptt. for advice.

Id/-
12/12-

M.B.

P. W. D.

Submitted with a draft for approval.

2. After issue, the papers may be refd. to u.o. to the legal Deptt. for advice.

Id/-
17-12-49.

u.o.r. to the legal Dept.. dt. 27-12-49.

No. 1817/48-M.

P. W. D.
B. C. (Bombay No.1)
22nd Dec. 1949.

To.

The General Manager,
M. & S. M.Rly.,

Subject:- Annual Closing of roads and pathways
across Rly. lands on the M. & S.M.Rly.

Sir,

I am to invite reference to Govt. letter of even number dated the 30-11-49, on the subject mentioned above and to state that the practice of annual closing of such crossings was dispensed with during the war, without any harmful results. Under section 15 of the Indian Easement Act, 1882, or otherwise by an agreement for 20 years; the Rly. can maintain its legal right over such crossings. Now that the Rlys. are under the crown, such annual crossings, merely to establish the right of Rlys., which in fact is a nuisance to the general public, can be dispensed with and an agreement in general terms for a period of 20 years may be entered into with the villagers. In view of the fast development of the country, this latter course would be more beneficial and would also minimise the hardships to the public at large. It is, therefore, suggested that this course may be adopted for the future. I am, therefore, to request you to consider this aspect and favour Govt. with your remarks thereon at an early date.

Yours faithfully,

D.A.Nil.
Id/-
17-12-49.

Indian Easements
Act.
Section 15.

Office of the R.L.A.

It is not clear on what legal point the R.L.A.'s advice is sought. The suggestion of an agreement with the villagers would be impracticable as it would be ^{difficult} ~~different~~ to ascertain which villagers are using the pathway and roadway on Railway land and to get an agreement executed by them.

Id/- 10/2/50.

Remembrancer of Legal Affairs.
U.O.R. to P.W.D. No.2072 dated the 11th Feb. 1950.

M-B.

1817/36
11389

* P. W. D.

Submitted with refce. to this Deptt. U.N. dated the 27-12-1949.

2. These papers relate to the annual closing of roads and pathways crossings the M. E.M. Rly.
3. The secy. in his note dated the 12-12-1949, had stated that this practice of annual closing of crossing should now be dispensed with as it is a nuisance to the public. Instead, an agreement for a period of 20 years can be executed between the Rly. and the villagers. The Rly. would thereby still establish its right over such crossings.
4. The General Manager, M & S.M. Rly. was addressed in G.L. No. 1817/36-M, dated the 22-12-1949, on the lines aforesaid. His reply in the matter is still awaited. In the meanwhile the pps. were refd. u.o. to the R.L.A. to advise on the subject. He states that it would be----

difficult to ascertain which villagers use the crossings etc.
However, the remarks from the Rly. authorities, called for,
may be awaited.

Id/-
18-2-50.

MADRAS AND SOUTHERN MAHRATTA RAILWAY.

Post Box No.523.

Telegram:-'Freight' Madras.

Telephone:-2901.

General Manager's Office,

Park Town,

Madras-3

Dated 31st May 1950.

In reply please quote -
No. W. 1930/89.

The Secretary to the Government of Bombay,
Public Works Department.
Bombay Castle, Bombay No.1.

Annual closing of roads and pathways across
Railway lands on the Madras and Southern
Mahratta Railway.

Your letter No. 1817/48-M dated 22nd December, 1949.

It is understood that the following procedure is
observed by the GIP and BB & C.I. Railways in the State
of Bombay in regard to the annual closing of private roads
roads and pathways in their land.

G. I. P. Railway:-

" The closure is neither published in the news
papers nor any advice is given to the Collector
of the District. It is notified to the public
by posting notices at the site of the roads or
pathways involved,

BB & C I. Railway.

" ~~There~~ A notice to the effect that the road etc.
will be closed from the -----hours to-----
on dates-----is put up at the site a few
days prior to the closing of the gates etc.,
No advice is given to the Collector of the
District or to any Civil authority.'

It will be seen from the above that the G.I.P. and BB &
C.I. Railways close the private roads and pathways in
their lands in the state of Bombay by only putting up

necessary notices at the sites and they do not inform either the Local Government or the Collector of the District or any other Local Authority of the closure-

It is proposed to adopt a similar procedure in respect of roads and pathways belonging to this Railway in the State of Bombay.

Id/-

General Manager.

Government of India
Ministry of Railways
(Railway Board).

No. W/49/2/1.

New Delhi, dated the 13th Sept.
1951.

To.

The Secretary to the Govt. of Bombay,
P.W.D., Bombay Castle, Bombay.

Subject:- Annual closing of roads and pathways
across railway lands.

Sir,

In continuation of this office letter No.W.49/2/1, dated the Railway Board have carefully examined the question of closing certain level crossings, roadways and pathways over Railway lands for a period of 24 hours every year and they consider that the existing practice should continue to protect Govt. rights there being no change in the legal position till now. In order, however, to minimise inconvenience to the Public, the Railway Administrations are being advised to select different days to close the various gates and the days selected should be those when the traffic is comparatively less.

Id/-
Director Civil Engineering,
Railway Board.

Id/-
17/9/-51.